



**CALIFORNIA STATE PERSONNEL BOARD**

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ARNOLD SCHWARZENEGGER, Governor



**CALIFORNIA STATE PERSONNEL BOARD MEETING**

801 Capitol Mall  
Sacramento, California

Public Session Location – 801 Capitol Mall  
Sacramento, California, Room 150  
Teleconference – 320 West 4<sup>th</sup> Street  
Los Angeles, California, Suite 620

Closed Session Location – 801 Capitol Mall  
Sacramento, California, Room 141  
Teleconference – 320 West 4<sup>th</sup> Street  
Los Angeles, California Suite 620

**SUMMARY MINUTES – APRIL 4, 2006**

**SUMMARY MINUTES<sup>1</sup>**

**APRIL 4, 2006**

**PUBLIC SESSION OF THE STATE PERSONNEL BOARD**

**1. ROLL CALL**

**William Elkins, President**  
**Sean Harrigan, Vice President**  
**Maeley Tom, Member**  
**Anne Sheehan, Member**  
**Patricia Clarey, Member**

**2. REPORT OF THE EXECUTIVE OFFICER – Floyd D. Shimomura**

- A.** On March 1, 2006, the SPB staff conducted a workshop at the Asian Pacific Islander Legislative Summit. The workshop covered the following topics: AB 124 (recent EEO legislation), the SPB's Bilingual Services Program, the SPB's EEO program, and how to interview for a state job or promotion.
- B.** The SPB's proposed \$18 million budget is being reviewed by committees of the Senate and Assembly. In the Assembly, questions were raised about the "late" approval of the FSR relating to the proposed joint SPB/DPA website and the propriety of going forward with the study on classification reform in the DPA budget.
- C.** The Staff Services Manager exam at Caltrans is being pulled back by the department after a review by the SPB indicated numerous problems. The formal Board Item canceling the exam and list generated from there will be coming to the Board in the near future.

**3. REPORT OF THE DEPARTMENT OF PERSONNEL ADMINISTRATION (DPA)**  
**- DPA Representatives**

Bill Avritt and Daryll Tsujihara gave brief reports on recent activities of the Department of Personnel Administration.

**4. REPORT OF THE PUBLIC EMPLOYEES RETIREMENT SYSTEM (PERS)**  
**- Maeley Tom**

Member Maeley Tom gave a brief report on recent activities of the Public Employees Retirement System.

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<sup>1</sup> The Minutes for the Board can be obtained at the following internet address:  
<http://www.spb.ca.gov/calendar.htm>

**5. REPORT OF THE CHIEF COUNSEL – Elise Rose**

**LITIGATION:**

Turner v. SPB—writ of mandate denied by superior court. The court found that specific determinations challenged by petitioner were supported by the evidence and the ALJ's credibility determinations. The court also specifically found that the discipline imposed, dismissal, was supported by the findings, including the finding of prior disciplinary actions against petitioner.

Plata v. State of California –

- SPB Chief Counsel attended a meeting regarding contracting between CDCR and private contractors chaired by the special master. The primary issue was how the state was going to pay \$58 million dollars in unpaid invoices of various health care contractors. The issues discussed did not impact SPB, but SPB Chief Counsel spoke with special master to make sure SPB is on any mailing lists regarding meetings pertaining to personnel issues and the February 14, 2006 order.
- SPB, as well as other control agencies, have been asked to identify specific state laws, regulations, and rules that we believe will potentially cause an impediment to the Receiver's mission and to provide suggested language for the courts consideration that will remove each identified impediment.

**OTHER:**

As a result of the recent publication by California AWARE regarding their findings regarding compliance with various state agencies with the Public Records Act, California Public Information Officers and Chief Counsels were mandated to attend a seminar regarding Public Records Act put on by the Governor's Office and the Office of the Attorney General. Sherry Hicks and Elise Rose attended the seminar. The Governor issued an Executive Order requiring all departments that report to the Governor to issue policies regarding compliance with the Public Records Act, to train people who are responsible for responding to Public Records Act requests, and to certify their having done so.

**6. NEW BUSINESS**

**NONE PRESENTED**

**7. REPORT ON LEGISLATION – Sherry Hicks**

**NONE PRESENTED**

**8. ORAL ARGUMENT**

Oral argument in the matter of **RICK OCHOA, CASE NO. 04-2373B**  
Appeal for determination of back salary, benefits and interest. Youth  
Correctional Officer. Department of the Youth Authority.

Persons Participating:

Edmund Brehl, Department of Personnel Administration Labor Relations Counsel,  
representing respondent

Rick Ochoa, appellant, representing himself

**ACTION: SUBMITTED**

**9. INFORMATIONAL BRIEFING – CPS HUMAN RESOURCE SERVICES**

- **Jerry Greenwell, Chief Executive Officer, CPS Human Resource Services**

Jerry Greenwell gave a brief report on recent activities of CPS.

**10. NEW EMPLOYEE ORIENTATION**

- **Maria Flores, State Personnel Board**

The State Personnel Board's new employees were introduced.

**CLOSED SESSION OF THE STATE PERSONNEL BOARD**

**11. EMPLOYEE APPOINTMENTS, DISCIPLINARY MATTERS, AND  
OTHER APPEALS**

Deliberations to consider matter submitted at prior hearing.  
[Government Code Sections 11126(d), 18653.]

**12. DELIBERATION ON ADVERSE ACTIONS, DISCRIMINATION COMPLAINTS,  
AND OTHER PROPOSED DECISIONS SUBMITTED BY ADMINISTRATIVE  
LAW JUDGES**

Deliberations on matters submitted at prior hearing; on proposed, rejected,  
remanded, and submitted decisions; petitions for rehearing; and other matters  
related to cases heard by administrative law judges of the State Personnel Board  
or by the Board itself. [Government Code Sections 11126 (d), and 18653 (2).]  
(See Action Taken on Pages 10–16)

**13. PENDING LITIGATION**

Conference with legal counsel to confer with and receive advice regarding pending litigation when discussion in open session would be prejudicial.

[Government Code sections 11126(e)(1) and 18653.]

**NONE**

**14. RECOMMENDATIONS TO THE LEGISLATURE**

Deliberations on recommendations to the legislature.

[Government Code section 18653.]

- **AB 2428 (CANCIAMILLA)**

This bill would authorize public bodies to require speakers who address the body on behalf of a group to disclose the number of members in the group, the top 3 sources of funding for the group, and the location of the group's headquarters or where the group is based.

**ACTION: NO POSITION**

- **SB 1636 (ACKERMAN)**

Among other things, this bill would amend the Public Records Act (Government Code section 6250 *et seq.*) to provide that subpoenas duces tecum for public records in judicial or administrative proceedings in which the public agency in possession of the records is not a party to the action, shall be deemed a request for records under the Public Records Act and shall be processed accordingly.

The bill would require the custodian of records for the public agency to notify the judicial or administrative agency that the public agency will not produce the records in accordance with the subpoena, but instead will only produce those records in accordance with the requirements of the Public Records Act. Those provisions of the bill will have a direct impact on the State Personnel Board.

**ACTION: OPPOSE UNLESS AMENDED**

- **SB 1745 (KUEHL)**

Among other things, this bill would amend the Fair Employment and Housing Act to include as a protected class persons who possess status as a victim of domestic violence, sexual assault or stalking.

**ACTION: NO POSITION**

- **SB 1832 (KEHOE)**

This bill would amend the Public Records Act (Government Code section 6250 *et seq.*) to require state and local agencies to waive those fees that must currently be charged when the state or local agency produces documents to a member of the public pursuant to a Public Records Act request. The bill specifies those factors the state or local agency must take into account when determining whether a fee waiver is appropriate.

**ACTION: OPPOSE**

**15. RECOMMENDATIONS TO THE GOVERNOR**

Deliberations on recommendations to the Governor.  
[Government Code section 18653.]

**NO ACTION**

**PUBLIC SESSION OF THE STATE PERSONNEL BOARD**

**16. DISCUSSION OF COMING BOARD MEETING SCHEDULE OF  
APRIL 18, 2006, IN SACRAMENTO, CALIFORNIA**

**NONE**

**BOARD ACTIONS:**

**17. ADOPTION OF THE STATE PERSONNEL BOARD SUMMARY MINUTES OF  
MARCH 8, 2006**

**ACTION: ADOPTED**

VOTE: Elkins, Harrigan, Tom, Sheehan, Clarey – Aye

**18. EVIDENTIARY CASES**

**ACTION: See Case Listings on Pages 10–18**

**19. RESOLUTION EXTENDING TIME UNDER GOVERNMENT CODE  
SECTION 18671.1 EXTENSION - (See Minutes on Pages 24–25)**

**20. NON-EVIDENTIARY CASES**

**ACTION: See Case Listings on Pages 18–21**

**21. NON-HEARING CALENDAR**

The following proposals were made to the State Personnel Board by either the Board staff or Department of Personnel Administration staff.

On April 4, 2006, the following proposals were presented to the Board by Laura M. Aguilera, Assistant Executive Officer, California State Personnel Board.

**ACTION: ADOPTED**

VOTE: Elkins, Harrigan, Tom, Sheehan, Clarey – Aye

**A. BOARD ITEMS PRESENTED BY STATE PERSONNEL BOARD OR DEPARTMENT OF PERSONNEL ADMINISTRATION TO ESTABLISH, REVISE OR ABOLISH CLASSIFICATIONS, ALTERNATE RANGE CRITERIA, ETC.**

**INVESTIGATIVE CERTIFIED PUBLIC ACCOUNTANT**

The Department of Consumer Affairs, California Board of Accountancy proposes revisions to the class series of Investigative Certified Public Accountant including the following: addition of new tasks and duties created by reform legislation and the expanded regulation of the accounting industry; and revisions to the minimum qualifications.

**B. ABOLISHMENT OF CLASSES THAT HAVE HAD NO INCUMBENTS FOR MORE THAN TWO YEARS. DEPARTMENTS THAT UTILIZE THE CLASS AS WELL AS THE APPROPRIATE UNION HAVE NO OBJECTION TO THE ABOLISHMENT OF THESE CLASSES.**

**THE DEPARTMENT OF PERSONNEL ADMINISTRATION AND STATE PERSONNEL BOARD** proposed to abolish the following unused classifications, which have been vacant for more than twenty-four months. Departments that utilized the class as well as the appropriate union had no objection to the abolishment of these classes.

<b>Title</b>	<b>Class Code</b>
Associate Boating Administrator	1102
Assistant Boating Administrator	1101
Boating Programs Trainee	1036
Reciprocity Officer, State Controllers Office	3291
Title Specialist III	5039
Business Equipment Analyst	5145
Associate Business Equipment Analyst	4165
Direct Construction Office Manager	4011
Supervising Land Agent (Managerial)	5005
Assistant Purchasing Manager	1932
Manager, Disabled Access Compliance Unit, Office of State Architect	4007

**22. STAFF CALENDAR ITEMS FOR BOARD INFORMATION**

**BLANKETING IN PLACER FIRE PROTECTION STAFF**

The California Department of Forestry and Fire Protection's request that the Placer Consolidated Fire Protection District employees be transferred into State civil service was approved by staff.

**ACTION: NOTED**

**23. CAREER EXECUTIVE ASSIGNMENT (CEA) CATEGORY ACTIVITY**

This section of the Minutes served to inform interested individuals and departments of proposed and approved CEA position actions.

**A. REQUESTS TO ESTABLISH NEW OR REVISE EXISTING CEA POSITIONS CURRENTLY UNDER CONSIDERATION**

**CHIEF, ADMINISTRATIVE OFFICER**

The Department of Food and Agriculture proposes to re-allocate the existing CEA allocation titled Chief Administrative Officer to the above position. The Chief, Administrative Officer will be responsible for developing and implementing department-wide policies in the areas of purchasing, contracting, building security, budgeting, and telecommunications.

**CHIEF, PERSONNEL MANAGEMENT**

The Department of Food and Agriculture proposes to allocate the above position to the CEA category. The Chief, Personnel Management will be responsible for developing and implementing department-wide policies, administering Department and county exam programs, developing leadership, mentoring, and succession planning programs for the Department and 52 District Agriculture Associations.

**DEPUTY DIRECTOR, CUSTOMER DELIVERY DIVISION**

The Department of Technology Services proposes to allocate the above position to the CEA category. The Deputy Director, Customer Delivery Division is responsible for the on-going marketing, promotion, analysis, management and oversight of technical products, and services to the Department of Technology Services customers.

**DEPUTY DIRECTOR, POLICY AND PLANNING DIVISION**

The Department of Technology Services proposes to allocate the above position to the CEA category. The Deputy Director, Policy and Planning Division will oversee the business planning activities necessary to accomplish strategic goals and objectives, enable better administration of departmental initiatives, and improve communications with all DTS stakeholders.



April 4, 2006

**B. EXECUTIVE OFFICER DECISIONS REGARDING REQUESTS TO ESTABLISH NEW OR REVISE EXISTING CEA POSITIONS**

**CHIEF, POLICY, RESEARCH & FORECASTING BRANCH, LICENSING AND CERTIFICATION BRANCH**

The Department of Health Services has withdrawn their proposal to allocate the above position to the CEA category effective March 6, 2006.

**ASSISTANT CHIEF COUNSEL, OFFICE OF DIRECTOR, LEGAL UNIT, NORTHERN REGION  
ASSISTANT CHIEF COUNSEL, OFFICE OF DIRECTOR, LEGAL UNIT, LOS ANGELES**

The Department of Industrial Relations proposal to allocate the above positions to the CEA category has been approved effective March 6, 2006.

**ASSISTANT DEPUTY DIRECTOR, ENTERPRISE PLANNING AND SERVICES BRANCH**

The Department of Motor Vehicles proposal to allocate the above position to the CEA category has been approved for a period of twenty-four months effective March 6, 2006.

**CHIEF, OFFICE OF SELF INSURANCE PLANS**

The Department of Industrial Relations proposal to allocate the above position to the CEA category has been approved for a period of twenty-four months effective March 6, 2006.

**ACTION: NOTED**

**24. EMPLOYEE APPOINTMENTS, DISCIPLINARY MATTERS, & OTHER APPEALS**

Deliberations to consider matter submitted at prior hearing. [Government Code sections 11126(d), 18653.]

**25. WRITTEN STAFF REPORT FOR BOARD INFORMATION**

**NONE**

**26. PRESENTATION OF EMERGENCY ITEMS AS NECESSARY**

**NONE**

**27. BOARD ACTIONS ON SUBMITTED ITEMS**

**ACTION: See Minutes on Pages 22–23**

**A D J O U R N M E N T**

**WHAT FOLLOWS IS A RECORD OF ACTION TAKEN ON AGENDA ITEMS 18 – 20 AS NOTED.**

**18. EVIDENTIARY CASES**

The Board Administrative Law Judges conduct evidentiary hearings in appeals that include, but are not limited to, adverse actions, medical terminations, demotions, discrimination, reasonable accommodations, and whistleblower complaints.

**A. BOARD CASES SUBMITTED**

These items have been taken under submission by the State Personnel Board at a prior meeting.

On April 4, 2006, the Board took the following action on the cases listed as presented by Elise Rose, Chief Counsel, California State Personnel Board.

VOTE: Elkins, Harrigan, Tom, Sheehan, Clarey – Aye

**(1) RONALD FRANKLYN, CASE NO. 05-2105A**

Appeal from 20 working days suspension

**Classification:** Officer

**Department:** California Highway Patrol

Proposed decision rejected December 20, 2005

Oral argument heard March 8, 2006, Sacramento

Case ready for decision by FULL Board

**ACTION:** The Board issued a non-precedential decision modifying 20 working days' suspension to five working days' suspension and awarding back pay, benefits, and interest.

**(2) ERNEST PITTMAN, CASE NO. 05-1591A**

Appeal from dismissal

**Classification:** Motor Vehicle Field Representative

**Department:** Department of Motor Vehicles

Proposed decision rejected December 6, 2005

Oral argument heard March 8, 2006, Sacramento

Case ready for decision by FULL Board

**NO ACTION**

**(3) RICHARD QUADRELLI, CASE NO. 05-1039A**

Appeal from dismissal

**Classification:** Caltrans Maintenance Supervisor

**Department:** Department of Transportation

Proposed decision rejected December 6, 2005

Oral argument heard March 8, 2006, Sacramento

Case ready for decision by FULL Board

**NO ACTION**

April 4, 2006

**B. CASES PENDING**

**ORAL ARGUMENTS**

This case was on calendar to be argued at this meeting or to be considered by the Board in closed session based on written arguments submitted by the parties.

On April 4, 2006, the Board took the following action on the case listed as presented by Elise, Chief Counsel, California State Personnel Board.

**RICK OCHOA, CASE NO. 04-2373BA**

Appeal for determination of back salary, benefits and interest

**Classification:** Youth Correctional Officer

**Department:** Department of the Youth Authority

**ACTION: SUBMITTED**

**C. CHIEF COUNSEL RESOLUTIONS**

On April 4, 2006, the Board took the following action on the cases listed as presented by Elise Rose, Chief Counsel, California State Personnel Board.

VOTE: Elkins, Harrigan, Tom, Sheehan, Clarey – Aye

**(1) ADALBERTO AYALA, CASE NO. 05-1300E**

Appeal from discrimination

**Classification:** Motor Vehicle Field Representative

**Department:** Department of Motor Vehicles

**ACTION:** The Board issued a resolution denying appellant's request to rescind settlement agreement.

**(2) KARIN CHEN, CASE NO. 04-3055**

Appeal from medical termination

**Classification:** Office Technician (Typing)

**Department:** Department of Transportation

**ACTION:** The Board issued a resolution remanding case to Chief ALJ with instructions to schedule matter for hearing on specified issues.

**(3) BRYAN CARLSON, CASE NO. 04-2279**

Appeal from demotion and transfer

**Classification:** Caltrans Maintenance Supervisor

**Department:** Department of Transportation

**ACTION:** The Board issued a resolution denying request for order to show cause in part and granting it in part, ordering Department of Transportation to immediately pay appellant all back salary, benefits, and interest due, and to notify the Board by April 28, 2006 as to what steps it has taken to comply.

April 4, 2006

**(4) CATHY KURTZ, CASE NO. 04-1465**

Appeal from CEA termination

**Classification:** Career Executive Assignment II

**Department:** Board of Prison Terms

**ACTION:** The Board issued a resolution directing Department of Corrections to take all necessary steps to ascertain whether appellant has been paid all back salary awarded by Board, to immediately pay any back salary due, and to notify the Board by April 28, 2006 as to what steps it has taken to comply.

**COURT REMANDS**

NONE

**STIPULATIONS**

This stipulation was submitted to the Board for approval, pursuant to Government Code, section 18681.

**(1) ROBERT JOEHNCK, CASE NO. 05-1516**

**Classification:** Staff Counsel III (Specialist)

**Department:** Department of Conservation

**ACTION:** The Board issued a decision approving stipulation for settlement.

**D. ADMINISTRATIVE LAW JUDGE'S (ALJ) PROPOSED DECISIONS**

**PROPOSED DECISIONS**

These were ALJ's proposed decisions submitted to the Board for the first time.

On April 4, 2006, the Board took the following action on the cases listed as presented by Elise Rose, Chief Counsel, California State Personnel Board.

VOTE: Elkins, Harrigan, Tom, Sheehan, Clarey – Aye

**(1) CHRISTINA ALMARAZ, CASE NO. 05-0789**

Appeal from five percent reduction in salary for three calendar months

**Classification:** Satellite Wagering Facility Janitor

**Department:** 22<sup>nd</sup> District Agricultural Association

**ACTION:** The Board adopted the ALJ's Proposed Decision revoking the reduction in salary.

- (2)     **MARIA AMARO, CASE NO. 04-2121E**  
Appeal from denial of disability discrimination complaint  
**Classification:** Office Assistant (Typing)  
**Department:** Department of Corrections and Rehabilitation  
**ACTION:** The Board adopted the ALJ's Proposed Decision dismissing the complaint.
- (3)     **SALVADOR ANAYA, CASE NO. 03-1825E**  
Appeal from denial of reasonable accommodation  
**Classification:** Caltrans Equipment Operator II  
**Department:** Department of Transportation  
**ACTION:** The Board adopted the ALJ's Proposed Decision denying the appeal.
- (4)     **DEWEY BREAUX, CASE NO. 05-1288**  
Appeal from ten percent reduction in salary for twelve months  
**Classification:** Correctional Officer  
**Department:** Department of Corrections and Rehabilitation  
**ACTION:** The Board adopted the ALJ's Proposed Decision modifying the reduction in salary.
- (5)     **DANNY BROWN, CASE NO. 05-2209**  
Appeal from dismissal  
**Classification:** Correctional Officer  
**Department:** Department of Corrections and Rehabilitation  
**ACTION:** The Board rejected the ALJ's Proposed Decision sustaining the dismissal.
- (6)     **CLIFFORD CHIGBU, CASE NO. 05-1525**  
Appeal from five working days suspension  
**Classification:** Disability Insurance Program Representative  
**Department:** Employment Development Department  
**ACTION:** The Board adopted the ALJ's Proposed Decision sustaining the suspension.
- (7)     **ALFRED DEL PRATO, CASE NO. 05-1449**  
Appeal from demotion  
**Classification:** Correctional Sergeant  
**Department:** Department of Corrections and Rehabilitation  
**ACTION:** The Board adopted the ALJ's Proposed Decision sustaining the demotion.

April 4, 2006

- (8) YAYA FANUSIE, CASE NO. 03-2134**  
Appeal from five days suspension  
**Classification:** Associate Transportation Rate Expert  
**Department:** California Public Utilities Commission  
**ACTION:** The Board adopted the ALJ's Proposed Decision sustaining the suspension.
- (9) RAYMOND E. GURULE, CASE NO. 05-1351**  
Appeal from dismissal  
**Classification:** Youth Correctional Officer  
**Department:** Department of the Youth Authority  
**ACTION:** The Board rejected the ALJ's Proposed Decision modifying the dismissal.
- (10) JACQUES HIRSCHLER, CASE NO. 02-1276B**  
Appeal for back salary  
**Classification:** Chief Medical Officer, Correctional Facility  
**Department:** Department of Corrections and Rehabilitation  
**ACTION:** The Board adopted the ALJ's Proposed Decision granting health insurance reimbursement.
- (11) SHAYNE INABNIT, CASE NO. 05-0767**  
Appeal from dismissal  
**Classification:** Correctional Officer  
**Department:** Department of Corrections and Rehabilitation  
**ACTION:** The Board adopted the ALJ's Proposed Decision modifying the dismissal.
- (12) TANYA KEYES, CASE NO. 05-0737**  
Appeal from demotion for six working months  
**Classification:** Satellite Facility Lead Janitor  
**Department:** 22<sup>nd</sup> District Agricultural Association  
**ACTION:** The Board modified the ALJ's Proposed Decision to no formal discipline.
- (13) MICHAEL KING, CASE NO. 05-0738**  
Appeal from ten percent reduction in salary for six months  
**Classification:** Satellite Wagering Facility Janitor  
**Department:** 22<sup>nd</sup> District Agricultural Association  
**ACTION:** The Board adopted the ALJ's Proposed Decision revoking the reduction in salary.
- (14) HECTOR MEZA, CASE NO. 05-1795**  
Appeal from ten working days suspension  
**Classification:** Officer  
**Department:** Department of California Highway Patrol  
**ACTION:** The Board adopted the ALJ's Proposed Decision sustaining the suspension.

April 4, 2006

- (15) **KENNY PENNYCOOK, CASE NO. 05-3766**  
Appeal from rejection during probationary period  
**Classification:** Corrections Officer  
**Department:** Department of Corrections and Rehabilitation  
**ACTION:** The Board adopted the ALJ's Proposed Decision sustaining the rejection.
- (16) **EVA RIVERA, CASE NO. 05-2375E**  
Appeal from discriminatory denial of appointment  
**Classification:** Senior Legal Typist  
**Department:** State Compensation Insurance Fund  
**ACTION:** The Board adopted the ALJ's Proposed Decision denying the discrimination complaint.
- (17) **DOREEN SCHMIDT, CASE NO. 05-0927**  
Appeal from dismissal  
**Classification:** Correctional Sergeant  
**Department:** Department of Corrections and Rehabilitation  
**ACTION:** The Board adopted the ALJ's Proposed Decision revoking the dismissal.
- (18) **KEITH THOMAS, CASE NO. 05-0159**  
Appeal from suspension for 60 calendar days  
**Classification:** Parole Agent I (Adult Parole)  
**Department:** Department of Corrections and Rehabilitation  
**ACTION:** The Board adopted the ALJ's Proposed Decision revoking the suspension.

**PROPOSED DECISIONS TAKEN UNDER SUBMISSION AT PRIOR MEETING**

NONE

**PROPOSED DECISIONS AFTER BOARD REMAND**

NONE

**PROPOSED DECISIONS AFTER SPB ARBITRATION**

NONE

**E. PETITIONS FOR REHEARING**

**ALJ PROPOSED DECISIONS ADOPTED BY THE BOARD**

The Board voted to grant or deny a petition for rehearing filed by one or both parties, regarding a case already decided by the Board.

April 4, 2006

On April 4, 2006, the Board took the following action on the cases listed as presented by Elise Rose, Chief Counsel, California State Personnel Board.

VOTE: Elkins, Harrigan, Tom, Sheehan, Clarey – Aye

- (1) **MICHELLE AYRES, CASE NO. 05-2974P**  
Notice of Findings signed by the Executive Officer on  
January 4, 2006  
**Classification:** Psychiatric Technician  
**Department:** Department of Mental Health  
**ACTION:** Petition for rehearing denied.
- (2) **LEE KENDRICK, CASE NO. 04-1620P**  
Appeal from dismissal  
**Classification:** Transportation Surveyor  
**Department:** Department of Transportation  
**ACTION:** Petition for rehearing granted.
- (3) **GORDON SMITH, CASE NO. 05-2181P**  
Appeal from rejection during probationary period  
**Classification:** Caltrans Equipment Operator II  
**Department:** Department of Transportation  
**ACTION:** Petition for rehearing denied.

#### **WHISTLEBLOWER NOTICE OF FINDINGS**

**NONE**

#### **F. PENDING BOARD REVIEW**

These cases were pending preparation of transcripts, briefs, or the setting of oral argument before the Board.

On April 4, 2006, the Board took the following action on the cases listed as presented by Elise Rose, Chief Counsel, California State Personnel Board.

VOTE: Elkins, Harrigan, Tom, Sheehan, Clarey – Aye

- (1) **TROY ALLEN, CASE NO. 05-2150A**  
Appeal from dismissal  
**Classification:** Caltrans Equipment Operator II  
**Department:** Department of Transportation  
  
Proposed decision rejected February 7, 2006  
Pending oral argument May 2, 2006, Los Angeles  
**NO ACTION**



- (2) **PRECILLA CALAUNAN, CASE NO. 05-1737RPA**  
Appeal from dismissal  
**Classification:** Psychiatric Technician Assistant  
**Department:** Department of Developmental Services  
  
Petition for Rehearing granted March 8, 2006.  
Pending transcript  
**NO ACTION**
- (3) **ALEJANDRO GILL, CASE NO. 05-0054RA**  
Appeal from dismissal  
**Classification:** Correctional Officer  
**Department:** Department of Corrections and Rehabilitation  
  
Proposed decision rejected January 6, 2006  
Pending oral argument May 2, 2006, Los Angeles  
**NO ACTION**
- (4) **JUDY JOHNSON, CASE NO. 05-1367A**  
Appeal from automatic resignation  
**Classification:** Motor Vehicle Field Representative  
**Department:** Department of Motor Vehicles  
  
Proposed decision rejected February 21, 2006  
Pending Transcript  
**NO ACTION**
- (5) **RICK OCHOA, CASE NO. 04-2373B**  
Appeal for determination of back salary, benefits and interest  
**Classification:** Youth Correctional Officer  
**Department:** Department of the Youth Authority  
  
Proposed decision rejected January 24, 2006  
Oral argument heard April 4, 2006  
**ACTION: SUBMITTED**
- (6) **EDUARDO PEREZ, CASE NO. 05-0763A**  
Appeal from five percent reduction in salary for six months  
**Classification:** Parole Agent I (Adult Parole)  
**Department:** Department of Corrections  
  
Proposed decision rejected November 1, 2005  
Oral argument originally set February 7, 2006, Los Angeles  
Oral argument continued to May 2, 2006, Los Angeles  
**NO ACTION**

- (7) **RAYMOND SLEDGE, CASE NO. 04-2809PA**  
Appeal from dismissal  
**Classification:** Youth Correctional Counselor  
**Department:** Department of the Youth Authority  
  
Petition for Rehearing granted March 8, 2006  
Pending transcript  
**NO ACTION**
- (8) **JAMES STEED, CASE NO. 05-0207PA**  
Appeal from constructive medical suspension  
**Classification:** Facility Captain  
**Department:** Department of Corrections and Rehabilitation  
  
Petition for Rehearing granted March 8, 2006  
Pending transcript  
**NO ACTION**

## 20. NON-EVIDENTIARY CASES

### A. WITHHOLD APPEALS

Cases heard by a Staff Hearing Officer, a managerial staff member of the State Personnel Board or investigated by Appeals Division staff.

#### WITHHOLD FROM CERTIFICATION CASES HEARD BY A STAFF HEARING OFFICER

NONE

#### WITHHOLD FROM CERTIFICATION CASES NOT HEARD BY A STAFF HEARING OFFICER

On April 4, 2006, the Board adopted as indicated below the following items presented by Laura M. Aguilera, Assistant Executive Officer, California State Personnel Board.

VOTE: Elkins, Harrigan, Tom, Sheehan, Clarey – Aye

- (1) **GERALD MARFIL, CASE NO. 04-1012**  
**Classification:** Correctional Officer  
**Department:** Department of Corrections and Rehabilitation  
**Issue:** Whether appellant was properly withheld for not meeting the Minimum Qualifications.  
**ACTION: DENIED**

- (2) **CARLOS MARTINEZ, CASE NO. 05-0415**  
**Classification:** Correctional Officer  
**Department:** Department of Corrections and Rehabilitation  
**Issue:** Suitability; furnished inaccurate information and a negative employment record.  
**ACTION: GRANTED**
- (3) **ALFONSO MERCADO, CASE NO. 05-0042**  
**Classification:** Casework Specialist  
**Department:** Department of Corrections and Rehabilitation  
**Issue:** Whether appellant was properly withheld for not meeting the Minimum Qualifications.  
**ACTION: DENIED**
- (4) **TREASURE NEWTON, CASE NO. 05-0717**  
**Classification:** Correctional Officer  
**Department:** Department of Corrections and Rehabilitation  
**Issue:** Suitability and illegal drug activity.  
**ACTION: DENIED**
- (5) **JORGE PACHECO, CASE NO. 05-0798**  
**Classification:** Correctional Officer  
**Department:** Department of Corrections and Rehabilitation  
**Issue:** Suitability and illegal drug activity.  
**ACTION: DENIED**
- (6) **ROBERT POST, CASE NO. 05-0278**  
**Classification:** Correctional Officer  
**Department:** Department of Corrections and Rehabilitation  
**Issue:** Suitability for peace officer position due to furnishing inaccurate information and omitting pertinent information during the selection process.  
**ACTION: DENIED**
- (7) **DOMINICK QUIROZ, CASE NO. 05-1148**  
**Classification:** Correctional Officer  
**Department:** Department of Corrections and Rehabilitation  
**Issue:** Suitability and omitting pertinent information.  
**ACTION: DENIED**
- (8) **WHITNEY WADE, CASE NO. 05-0217**  
**Classification:** Correctional Officer  
**Department:** Department of Corrections and Rehabilitation  
**Issue:** Failed to provide additional information and documentation to complete background investigation.  
**ACTION: DENIED**

April 4, 2006

**B. MEDICAL AND PSYCHOLOGICAL SCREENING APPEALS**

Cases were heard by a Staff Hearing Panel comprised of a managerial staff member of the State Personnel Board and a medical professional. The Board will be presented recommendations by a Hearing Panel on each appeal.

On April 4, 2006, the Board adopted as indicated below the following items presented by Laura M. Aguilera, Assistant Executive Officer, California State Personnel Board.

VOTE: Elkins, Harrigan, Tom, Sheehan, Clarey – Aye

**(1) MARCOS HERNANDEZ, CASE NO. 05-0964**

**Classification:** Correctional Officer

**Department:** Department of Corrections and Rehabilitation

**Issue:** Appellant psychologically disqualified from employment as a Correctional Officer.

**ACTION: DENIED**

**C. EXAMINATION APPEALS  
MINIMUM QUALIFICATIONS  
MERIT ISSUE COMPLAINTS**

**NONE**

**D. RULE 211 APPEALS  
RULE 212 OUT OF CLASS APPEALS  
VOIDED APPOINTMENT APPEALS**

Cases were heard by a Staff Hearing Officer, or a managerial staff member of the State Personnel Board. The Board was presented recommendations by a Staff Hearing Officer for final decision on each appeal.

On April 4, 2006, the Board adopted as indicated below the following items presented by Laura M. Aguilera, Assistant Executive Officer, California State Personnel Board.

VOTE: Elkins, Harrigan, Tom, Sheehan, Clarey – Aye

**RULE 211 APPEALS**

**(1) RICHARD DAVIS, CASE NO. 05-1998**

**Classification:** Psychiatric Technician

**Department:** State Personnel Board

**Issue:** Pursuant to Rule 211, the appellant is requesting approval from the SPB's Executive Officer to take a state examination after having been dismissed from state service.

**ACTION: DENIED**

**(2) ALVIN HALE, CASE NO. 05-0771**

**Classification:** Office Technician (T) LEAP

**Department:** State Personnel Board

**Issue:** Pursuant to Rule 211, the appellant is requesting approval from the SPB's Executive Officer to take a state examination after having been dismissed from state service.

**ACTION: GRANTED**

**RULE 212 OUT OF CLASS APPEALS**

**NONE**

**VOIDED APPOINTMENT APPEALS**

**NONE**

**E. REQUEST TO FILE CHARGES CASES**

**NONE**

**PETITIONS FOR REHEARING CASES**

**NONE**

**SUBMITTED**

**1. TEACHER STATE HOSPITAL (SEVERELY), ETC.**

Departments of Mental Health and Developmental Services. (Hearing held December 3, 2002.)

**NO ACTION**

**2. VOCATIONAL INSTRUCTOR (SAFETY)(VARIOUS SPECIALTIES)**

Departments of Mental Health and Developmental Services. (Hearing held December 3, 2002.)

**NO ACTION**

**3. TELEVISION SPECIALIST (SAFETY)**

The Department of Corrections proposes to establish the new classification Television Specialist (Safety) by using the existing Television Specialist class specification and adding "Safety" as a parenthetical to recognize the public aspect of their job, additional language will be added to the Typical Tasks section of the class specification and a Special Physical Characteristics section will be added. (Presented to Board March 4, 2003.)

**NO ACTION**

**4. HEARING – Personal Services Contract #04-03**

Appeal of the California State Employees Association from the Executive Officer's April 15, 2004, Approval of Master Contracts between the California Department of Corrections and Staffing Solutions, CliniStaff, Inc., Staff USA, Inc., CareerStaff Unlimited, MSI International, Inc., Access Medical Staffing & Service, Drug Consultants, Infinity Quality Services Corporation, Licensed Medical Staffing, Inc., Morgan Management Services, Inc., Asereth Medical Services, and PrideStaff dba Rx Relief. (Hearing held August 12, 2004.)

**NO ACTION**

**5. HEARING**

Proposed new and revised State Personnel Board Regulations effecting equal opportunity, discrimination complaints and reasonable accommodation policies and procedures. (Hearing held July 7, 2004.)

**NO ACTION**

**6. RONALD FRANKLYN, CASE NO. 05-2105A**

Appeal from 20 working days suspension. Officer. California Highway Patrol. (Oral argument held March 8, 2006.)

**ACTION:** The Board issued a non-precedential decision modifying 20 working days' suspension to five working days' suspension and awarding back pay, benefits, and interest.

**7. ERNEST PITTMAN, CASE NO. 05-1591A**

Appeal from dismissal. Motor Vehicle Field Representative. Department of Motor Vehicles. (Oral argument held March 8, 2006.)

**NO ACTION**

**8. RICHARD QUADRELLI, CASE NO. 05-1039A**

Appeal from dismissal. Caltrans Maintenance Supervisor. Department of Transportation. (Oral argument held March 8, 2006.)

**NO ACTION**

**9. RICK OCHOA, CASE NO. 04-2373B**

Appeal for determination of back salary, benefits and interest. Youth Correctional Officer. Department of the Youth Authority. (Oral argument held April 4, 2006.)

**NO ACTION**

**NOTICE OF GOVERNMENT CODE SECTION 18671.1 RESOLUTION**

Since Government Code section 18671.1 requires that cases pending before State Personnel Board Administrative Law Judges (ALJ's) be completed within six months or no later than 90 days after submission of a case, whichever is first, absent the publication of substantial reasons for needing an additional 45 days, the Board hereby publishes its substantial reasons for the need for the 45-day extension for some of the cases now pending before it for decision.

An additional 45 days may be required in cases that require multiple days of hearings, that have been delayed by unusual circumstances, or that involve any delay generated by either party (including, but not limited to, submission of written briefs, requests for settlement conferences, continuances, discovery disputes, pre-hearing motions). In such cases, six months may be inadequate for the ALJ to hear the entire case, prepare a proposed decision containing the detailed factual and legal analysis required by law, and for the State Personnel Board to review the decision and adopt, modify or reject the proposed decision within the time limitations of the statute.

Therefore, at its next meeting, the Board will issue the attached resolution extending the time limitation by 45 days for all cases that meet the above criteria, and that have been before the Board for less than six months as of the date of the Board meeting.



**GOVERNMENT CODE SECTION 18671.1 RESOLUTION**

**WHEREAS**, Section 18671.1 provides that, absent waiver by the appellant, the time period in which the Board must render its decision on a petition pending before it shall not exceed six months from the date the petition was filed or 90 days from the date of submission; and

**WHEREAS**, Section 18671.1 also provides for an extension of the time limitations by 45 additional days if the Board publishes substantial reasons for the need for the extension in its calendar prior to the conclusion of the six-month period; and

**WHEREAS**, the Agenda for the instant Board meeting included an item titled "Notice of Government Code section 18671.1 Resolution" which sets forth substantial reasons for utilizing that 45-day extension to extend the time to decide particular cases pending before the Board;

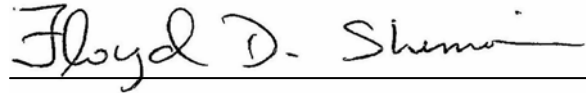
**WHEREAS**, there are currently pending before the Board cases that have required multiple days of hearing and/or that have been delayed by unusual circumstances or by acts or omissions of the parties themselves;

**NOW, THEREFORE, BE IT RESOLVED AND ORDERED** that the time limitations set forth in Government Code section 18671.1 are hereby extended an additional 45 days for all cases that have required multiple days of hearing or that have been delayed by acts or omissions of the parties or by unusual circumstances and that have been pending before the Board for less than six months as of the date this resolution is adopted.

\* \* \* \* \*

I hereby certify that the State Personnel Board adopted the preceding resolution at its meeting held on April 4, 2006.

VOTE: Elkins, Harrigan, Tom, Sheehan, Clarey – Aye

A handwritten signature in cursive script, reading "Floyd D. Shimomura", written over a horizontal line.

Floyd Shimomura  
Executive Officer  
California State Personnel Board